

SENATE BILL 706

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2004 Regular Session
(4lr2319)

ENROLLED BILL
-- Finance/Health and Government Operations --

Introduced by **Senators Kelley, Britt, and Teitelbaum**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~Mental Hygiene Administration-- Community-Based Services Fund-- Scope~~

3 FOR the purpose of altering the uses of the Waiting List Equity Fund; clarifying the
4 purpose of the Community-Based Services Fund in the Mental Hygiene
5 Administration; requiring that certain Mental Hygiene Administration property
6 be sold or leased under certain circumstances; requiring the funds from the sale
7 or lease of certain property to be used in a certain manner; ~~repealing a certain~~
8 ~~method for calculating the funding for the Fund~~; requiring the Mental Hygiene
9 Administration to develop a plan to spend certain funds in consultation with
10 certain groups; providing for the application of this Act; requiring the
11 Department of Health and Mental Hygiene and certain groups to report to certain
12 committees of the General Assembly on a certain matter on or before a certain
13 date; and generally relating to ~~the Mental Hygiene Administration and the~~
14 ~~Community-Based Services Fund~~ community-based services.

15 BY repealing and reenacting, with amendments,
16 Article - Health - General

1 Section 7-206(b) and 10-208
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2003 Supplement)

4 Preamble

5 WHEREAS, The mission of the Mental Hygiene Administration is to create
6 and manage a coordinated, comprehensive, accessible, culturally sensitive, and age
7 appropriate system of publicly-funded services and supports for individuals who are
8 diagnosed with a psychiatric disorder; and

9 WHEREAS, One of the stated values of the Mental Hygiene Administration is
10 that, "services should be provided in the least restrictive, most normative, and most
11 appropriate setting"; and

12 WHEREAS, The Supreme Court held in the 1999 Olmstead v. L.C. decision
13 that, "under Title II of the Americans With Disabilities Act, States are required to
14 provide community-based treatment for persons with mental disabilities in
15 community settings when the State's treatment professionals have determined that
16 such placement is appropriate, the affected persons do not oppose such treatment,
17 and the placement can be reasonably accommodated, taking into account the
18 resources available to the State"; and

19 WHEREAS, The Department of Health and Mental Hygiene's October 2003
20 Report to the Joint Chairmen on Maryland's Public Mental Health System on
21 Restructuring the System of Hospital Care concluded that the State may consolidate
22 its three existing regional psychiatric hospitals in central Maryland to two hospitals
23 while continuing to meet the needs of individuals diagnosed with a psychiatric
24 disorder; and

25 WHEREAS, To ensure that Maryland meets its obligation to provide
26 treatment for persons with mental disabilities in community settings where
27 appropriate, the savings associated with consolidation and closure need to be
28 allocated to the Mental Hygiene Administration's Community-Based Services Fund
29 to provide community services to individuals who are ready for discharge from a State
30 psychiatric hospital, and to expand the access to community services to prevent the
31 unnecessary use of costly hospital care and to promote independence and recovery;
32 now, therefore,

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
34 MARYLAND, That the Laws of Maryland read as follows:

35 **Article - Health - General**

36 7-206.

37 (b) Subject to the appropriation process in the annual operating budget, the
38 Department shall use the Waiting List Equity Fund for:

1 (1) Providing community-based services to each individual who leaves a
 2 State residential center on or after October 1, 1994; and

3 (2) Providing] PROVIDING community-based services to individuals
 4 eligible for, but not receiving, services from the Developmental Disabilities
 5 Administration[, with the funds remaining after each individual who leaves a State
 6 residential center on or after October 1, 1994 is served in the community].

7 10-208.

8 (a) (1) There is a continuing nonlapsing Mental Hygiene Community-Based
 9 Services Fund.

10 (2) [Subject to the appropriation process, the] THE purpose of the
 11 Mental Hygiene Community-Based Services Fund is to ensure that funds realized
 12 from the SALE OR LEASE OF MENTAL HYGIENE ADMINISTRATION FACILITIES AS THE
 13 RESULT OF downsizing, CONSOLIDATION, OR CLOSURE [of Mental Hygiene
 14 Administration facilities] are used to provide community-based services.

15 [(3) In determining funding for the Mental Hygiene Community-Based
 16 Services Fund, the cost of providing services to an individual in a mental hygiene
 17 facility shall be calculated by:

18 (i) Dividing the mental hygiene facility's appropriation by the daily
 19 average census reported in the mental hygiene facility's annual operating budget for
 20 the last full year the individual was served in the mental hygiene facility prorated
 21 over the number of months the individual is served in the community; and

22 (ii) Subtracting the following:

23 1. The average annual itemized expenses associated with
 24 institutional services and administrative overhead costs that are demonstrated to be
 25 directly attributable to serving individuals remaining in the mental hygiene facility;

26 2. The cost for new admissions certified in accordance with
 27 the provisions of Subtitle 6 of this title; and

28 3. The cost for court-ordered commitments.]

29 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF ANY MENTAL
 30 HYGIENE ADMINISTRATION FACILITY IS DOWNSIZED, CONSOLIDATED, OR CLOSED,
 31 ALL STATE PROPERTY ASSOCIATED WITH THE FACILITY THAT IS NOT TRANSFERRED
 32 TO ANOTHER GOVERNMENTAL ENTITY SHALL BE SOLD OR LEASED AT FAIR MARKET
 33 VALUE, AND THE NET PROCEEDS OF THE SALE OR LEASE SHALL BE DEPOSITED INTO
 34 THE MENTAL HYGIENE COMMUNITY-BASED SERVICES FUND.

35 [(b) (C) (1) If a facility operated by the Mental Hygiene Administration is
 36 downsized, CONSOLIDATED, OR CLOSED such that the net resident population
 37 declines OR IF A FACILITY IS CLOSED OR CONSOLIDATED AND BED CAPACITY LEVELS
 38 REMAINED UNCHANGED:

1 [(1)] (I) State general funds may be appropriated as necessary, in
2 advance, to assist in the downsizing; ~~and~~

3 [(2)] (II) Any funds in the Mental Hygiene Community-Based Services
4 Fund:

5 [(i)] 1. May not supplant resources for existing community
6 services; and

7 [(ii)] 2. Shall be used to ~~{meet the needs}~~ **INCREASE THE**
8 **AVAILABILITY** of:

9 [1.] A. ~~{Individuals~~ **INDIVIDUALS** leaving facilities to enter
10 community-based services} ~~COMMUNITY MENTAL HEALTH SERVICES DESIGNED TO~~
11 ~~PROMOTE RECOVERY AND COMMUNITY INTEGRATION, INCLUDING DEVELOPMENT~~
12 ~~OF THE MARYLAND MENTAL HEALTH CRISIS RESPONSE SYSTEM ESTABLISHED~~
13 ~~UNDER SUBTITLE 14 OF THIS TITLE}; and~~

14 [2.] B. ~~{Individuals who are identified but not yet provided~~
15 ~~with community based services}~~ **AFFORDABLE HOUSING AND EMPLOYMENT**
16 **OPPORTUNITIES FOR INDIVIDUALS WITH MENTAL ILLNESS; AND**

17 (III) **ANY FUNDS REMAINING AFTER MEETING THE NEEDS OF**
18 **INDIVIDUALS IDENTIFIED IN SUBPARAGRAPH (II)2 OF THIS PARAGRAPH SHALL BE**
19 **USED TO INCREASE THE AVAILABILITY OF:**

20 1. **AFFORDABLE HOUSING AND EMPLOYMENT**
21 **OPPORTUNITIES FOR INDIVIDUALS WITH MENTAL ILLNESS; AND**

22 2. **COMMUNITY MENTAL HEALTH SERVICES DESIGNED TO**
23 **PROMOTE RECOVERY AND COMMUNITY INTEGRATION, INCLUDING DEVELOPMENT**
24 **OF THE MARYLAND MENTAL HEALTH CRISIS RESPONSE SYSTEM ESTABLISHED**
25 **UNDER SUBTITLE 14 OF THIS TITLE.**

26 (2) FUNDS IN THE MENTAL HYGIENE COMMUNITY-BASED SERVICES
27 FUND SHALL BE SPENT IN ACCORDANCE WITH A PLAN DEVELOPED BY THE MENTAL
28 HYGIENE ADMINISTRATION IN CONSULTATION WITH CONSUMERS, FAMILY
29 MEMBERS, PROVIDERS, AND MENTAL HEALTH ADVOCATES.

30 [(c) The Secretary shall adopt regulations for the management and use of the
31 money in the Mental Hygiene Community-Based Services Fund.]

32 (d) On or before January 1 of each year, the Secretary shall prepare a report to
33 be submitted to the General Assembly and the Department of Legislative Services on
34 the Mental Hygiene Community-Based Services Fund.

35 (e) Any unspent portions of the Mental Hygiene Community-Based Services
36 Fund and any interest earned on money in the Waiting List Equity Fund may not be
37 transferred or revert to the General Fund of the State but shall remain in the Mental

1 Hygiene Community-Based Services Fund to be used for the purposes specified in
2 this section.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
4 construed to apply only prospectively and may not be applied or interpreted to have
5 any effect on or application to any closure, consolidation, or downsizing of any Mental
6 Hygiene Administration facility before the effective date of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before September 1,
8 2004, the Department of Health and Mental Hygiene, the University of Maryland
9 Medical System, and the University of Maryland, Baltimore, shall report to the Senate
10 Budget and Taxation Committee, the Senate Finance Committee, the House
11 Appropriations Committee, and the House Health and Government Operations
12 Committee in accordance with § 2-1246 of the State Government Article on any
13 developments related to the proposed transfer of the Walter P. Carter Center to the
14 University of Maryland Medical System.

15 SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect July 1, 2004.